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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,737	09/26/2003	Jeyhan Karaoguz	14828US02	9453
23446 7590 11/07/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			EXAMINER LEMMMA, SAMSON B	
			ART UNIT 2132	PAPER NUMBER
			MAIL DATE 11/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/672,737

Applicant(s)

KARAOGUZ ET AL.

Examiner

Samson B. Lemma

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

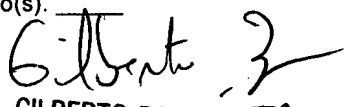
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s).
13. ☐ Other: _____.


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SUPERVISORY PATENT EXAMINER
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Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed on October 23, 2007 have been fully considered but they are not persuasive. The following argument presented by the applicant's representative has been considered.

"The embodiment described in Frezza at col. 1, lines 19-39 relates to the alleged prior art to Frezza and does not relate to any of the embodiments in Frezza. The teachings of Frezza reject the "headend apparatus" described in Background section of Frezza. Instead, Frezza finds it "advantageous to provide for decentralized control over access to a communication network. Such an arrangement would permit a simplified headend apparatus to be a simple digital data repeater which unconditionally rebroadcasts upstream received messages on a downstream channel." Frezza at col. 1, lines 41-46. In addition, Frezza teaches away from the claimed inventions by teaching that "[i]t would be further advantageous to provide a communication network which does not rely on the headend equipment for access control because the headend environment is often very harsh." Frezza at col. 1, lines 53-56. Since the teachings of Detailed Description and Figures (i.e., the invention) of Frezza teaches away from the Background section, it is not proper to combine the teachings of the Background section of Frezza and the teachings of Detailed Description and the Figures (i.e., the invention) of Frezza. Thus, it is improper for the proof of the Examiner to rely on completely different networks (i.e., the network in the Background section and the network of the Frezza invention which teaches away from the network in the Background section)"

Examiner disagrees with the above argument.

Examiner would like to point out that what is cited by the reference on the record, shown on column 1, lines 41-61, is an improvement made to the well-known communication networks providing bi-directional communication which is incorporated by the reference as it is indicated on column 1, lines 11-19.

Examiner would point out the following.

For instance the office would show that what is disclosed on column 1, lines 19-39, is referred to nothing and related to the pending application.

"The pending application referred to discloses a mechanism by which access to CATV communication resources is controlled so that unauthorized users are denied access and authorized users are granted access. The CATV communication network includes an upstream communication path and a downstream communication path. A node originating a message (a source node), which can be located at any respective point in the CATV system, transmits a verification message, referred to as a frame verifier (FV) code, as part of an upstream message. The headend apparatus of the CATV system examines the frame verifier code and rebroadcasts the received upstream message in the downstream portion of the cable spectrum only if the frame verifier code indicates that the source node is an authorized user, thereby granting the user access to the CATV resources. Conversely, the headend apparatus does not rebroadcast the upstream message if the frame verifier code indicates that the source node is not an authorized user, thereby denying the user meaningful access to the CATV resources. Thus, system access control is centralized at the headend."

Therefore, the office would like to point out that the "network" the examiner recited is in accordance with the invention of the reference on the record. Furthermore, has also support in the back ground of the invention.

For instance on column 2, lines 54-56, it has been disclosed that "FIG. 1 is a block diagram of a communication network in accordance with the present invention."

Therefore Examiner, cited figure 1 in his rejection, and figure 1 does not rely on completely different networks but on the same network that is shown on figure 1 of the Frezza's invention and which is also supported by what is disclosed in the background. In view this understanding, Contrary to the applicant's argument, Improvement made to what is cited in the background's section does teach away from the network in the backgrounds sections. Instead the invention further recites other ways of control over access to the communication network.

Examiner requested the applicant's to recites explicitly the meaning of the limitation recited as "home environment" with respect to the claims or to indicate to the examiner where/ other than paragraph 0009, applicant's specification the term is used. However applicants' representative argued that the term is clear for one of ordinary skill in the art.

Furthermore related to this issue, applicant's representative wrote the following.

"In particular, Applicants note that, under an anticipation rejection under 35 U.S.C. § 102(b), each and every element must be described in Frezza. Such it not the case, especially where the Examiner's prima facie case of anticipation seems to hinge on a service node 34 that provides cable services being deployed in a home environment."

Examiner disagrees with the above argument too.

Examiner would like to point out that on column 3, lines 68-column 4, line 8, the following has been disclosed.

"When a subscriber node, such as subscriber node 40 wishes to gain access to the communication network in order to communicate with a service node, the subscriber node sends a message requesting service by NAC 22 via upstream channel 12 (which, in this instance, is a specially allocated unsecured "home" channel reserved for communication between NAC 22 and subscriber nodes requesting initial access to the network. Therefore the unsecure home channel is interpreted as a "home environment" by the office."

Furthermore on column 5, lines 65-column 6, line 3, the following has also been disclosed.

"Service node 34 can provide any of a wide variety of consumer or commercial services such as home banking, electronic mail and newspapers, shop at home, and the like. A provider of such services can couple its computers to the upstream channel of the communication network via path 36 and the downstream channel via path 38 of service node 34."

And since the service node is connected to the both upstream channel/home channel and down stream channel it meets the limitation recited as "a network device deployed in a home environment."

"Deploying or placing a network device" in home environment" and "placing or deploying a network device in a home channel" is one and the same as long as the home channel is interpreted as environment. Applicants' "Environment" is such a broad term and interpreting it as a communication channel is correct unless and otherwise applicant's specification define the term otherwise. And applicant's "home environment" recited on paragraph 0009 does not exclude such interpretation.

Examiner finally would show how each and every limitation of the independent claims, 1, 17 and 21 are disclosed by the reference/s on the record namely Frezza.

For instance, Referring to the independent claims 1, 17 and 21, Frezza discloses a system for preventing unauthorized access to a network device, [column 1, lines 19-22) (A mechanism by which access to CATV communication resources is controlled so that unauthorized users are denied access and authorized users are granted access) comprising:

- A headend coupled to a communications network; and a network device deployed in a home environment and communicatively coupled to the communications network via the headend, wherein the headend is adapted to determine whether a request to access the network device is authorized.[column 1, lines 25-40) (First of all the service node shown on figure 1, ref. Num "34" is met the limitation of the "network device". And since Frezza on column 5, lines 13-16, discloses the following. "In a communication network such as a CATV system, approximately 300 different nodes can communicate on each channel at the same time using standard multiplexing (e.g. CSMA/CD) techniques." This implies the fact that both the upstream and downstream channel shown on figure 1 are communication networks because by definition a network is simply "a group of stations (computers, telephones, or other devices) connected by communications facilities for exchanging information." Therefore this meets the limitation of a network device deployed in a home environment and communicatively coupled to the communications network via the headend. Furthermore on column 1, lines 25-40 the following has been disclosed, and together with what has been stated above meets the limitation recited, "A headend coupled to a communications network; and a network device deployed in a home environment and communicatively coupled to the communications network via the headend, wherein the headend is adapted to determine whether a request to access the network device is authorized". "A node originating a message (a source node), which can be located at any respective point in the CATV system, transmits a verification message, referred to as a frame verifier (FV) code, as part of an upstream message. The headend apparatus of the CATV system examines the frame verifier code and rebroadcasts the received upstream message in the downstream portion of the cable spectrum only if the frame verifier code indicates that the source node is an authorized user, thereby granting the user access to the CATV resources. Conversely, the headend apparatus does not rebroadcast the upstream message if the frame verifier code indicates that the source node is not an authorized user, thereby denying the user meaningful access to the CATV resources. Thus, system access control is centralized at the headend".)

Though the application could contain allowable subject matter, the claims have not yet been written to incorporate such subject matter. Therefore the rejection is maintained until applicant amend at least the independent claims and successfully overcome the ground of rejection set forth in the final office action.